Num. 10.

Dr. *Hammond*'s brief Reſolution of that Grand Caſe of Conſcience, (neceſſary for theſe Times) concerning the Allegiance due to a Prince ejected by Force out of his Kingdoms; and how far the Subjects may comply with a preſent Uſurped Power.

Queſtion.

DOth not Victory give a Right to the Conquerour?

And doth it not thence follow, that he which is ejected out of his Kingdom, by Force of a prevailing Party, hath thereby loſt his Right of Allegiance *from his former Subjects?*

And is not then that Right devolved on the Conquerour, *by the force of theſe words of* God, *when he ſaith, Dan.* 4. 17. *and* 25. 32. *That* he ruleth in the Kingdoms of Men, and giveth it to whomſoever he will, and ſetteth up over it the baſeſt of Men? *And of* Eccluſ. 10. 8. becauſe of Unrighteouſneſs the Kingdom is tranſlated from one People to another?

And when he doth ſo, are not all Members of ſuch a Kingdom obliged (as the Iſraelites *in their Deportation to* Babylon) *to yield Obedience to the* Conquerour?

Anſwer.

This Objection conſiſts of divers Branches, and I ſhall anſwer it by degrees.

1. That all Victory doth not give a Right to the *Conquerour*, but only when the War being founded on a juſt Cauſe, that juſt Cauſe hath alſo been bleſt with Victory. And when that is, depends wholly on the trating of that Queſtion, concerning the Lawfulneſs of any War.

Now becauſe there can never be juſt War on the *Subjects* part againſt their *Sovereign*, becauſe they want the Warrant of Supreme Authority, without which (though the Cauſe ſhould be never ſo juſt, and the

End never ſo good,) all the Blood that is ſhed, is no better than Murther: Therefore though the *Subjects* in ſuch a War ſhould prevail againſt their *Sovereign*, yet neither is he hereby diveſted of his juſt Right, nor they inveſted therewith, becauſe the War was wholly unjuſt on their part, for want of Authority.

2. Therefore if that Party whoſe Cauſe is Unjuſt, ſhall yet prevail, and prove ſucceſsfull, then in anſwer to the ſecond Branch, I ſay, that there is no Right acquired by this: For, 'tis a miſtake to think that this is the meaning of *Jus Victoriæ, the Right of Victory*, which the *Civil Lawyers* ſpeak of, as if *God* had by this *lottery* teſtified his Judgment of the Right, and pronounced that Juſt now, which was Unjuſt before; or that the preſent Force is always to be looked on as the *Higher Powers*, and allowed the Obedience required by the *Apoſtle*, as due to them, which is the miſtaking of δύναμις, *Power*, for ἐξουσία, *Authority*, and agrees with that ſpeech of the *Atheiſts*, *Wiſ.* 2. *Our ſtrength is the Law of Juſtice, and that which is feeble is found to be nothing worth.* And we know 'tis Gods ordinary diſpenſation now under the *Goſpel* to permit Violence to oppreſs the Godly, which ſure is no Argument that thoſe proſperous Ungodly, have the ſole Right to the Poſſeſſions of the World, or that the oppreſt Godly Man, ſhall no longer be thought to be oppreſt, when the proſperous Oppreſſour, is arrived at the height of his oppreſſion.

3. The Queſtion then being removed from the Title of *Force*, (which being itſelf unjuſt, cannot confer Right on any,) It muſt next be conſider'd, what *Dedition* (that is, *yielding or reſigning up of one's Right*) can doe. That will be of two ſorts; either of the *Prince*, or the *People*; and again, either *Voluntary* or *Involuntary*.

A *Voluntary Dedition*, or *yielding up*, of the rightfull Poſſeſſor, if he be a private Man, transfers a Right: But a *Prince*, being a publick Perſon, and having an obligation of Protection to his Subjects, cannot without ſome breach of that Obligation, abdicate his *Kingdom*, nor conſequently voluntarily yield up his Power; or if he do, he cannot transfer the Right to any, (ſave to the lawful Heir or Succeſſor,) without the tacit or expreſs Conſent of the People alſo.

But in caſe they conſent alſo, then will his Right (*in Kingdoms Elective*) be transferred by the joint yielding of the King and his Subjects. As for Kingdoms hereditary, the Subjects Conſent is not neceſſary; but the King's yielding up of his Right alone, is ſufficient to transfer the Right to the next Heir. Neither can the joint Act both of King and

and People, transfer this Right, from the next Heir, to any other. The King's yielding is an Abſolution of the Subjects from the Allegiance formerly due to him by them, and ſo makes it lawfull for them to yield the ſame to another; and when 'tis thus free and lawfull to them, the Intervention of their own Act alſo becomes Obligation on them to ſubmit to that Perſon ſo yielded to. And when this is done (in *Kingdoms Elective*) and withall when no Heir is left to make Claim, or the Claim is relinquiſh'd by the right Heir, (*in Kingdoms hereditary*,) then is the Kingdom removed, (and given by God, who now rules not immediately among us, as he did in the time of the *Theocracy* among the *Jews*, but is then ſaid to remove a Kingdom, when his Providence ſo diſpoſes, that by the Laws, and Right among Men, it is removed,) to another.

But till this be done, *i.e.* till *He*, or *They*, in whom the Right both of *preſent Poſſeſſion*, and *future Claim by Inheritance*, is truly veſted, do voluntarily yield up that Right, and when that is done, till they which by their yielding, are freed from their former Bands, do now by their own Act enter into new, what Force ſoever there be, and how ſucceſsfull ſoever the Force be, there is not thereby any ſuch Victory compleated, as ſhall be able to confer Right on the Victor, nor remove it from him that hath, and ſtill proteſts his *Right*, though as yet he be not ſtrong enough to vindicate it.

4. But then in the next place, if there be a Dedition, or yielding up by the King, and that Dedition involuntary; that is, ſuch as nothing but the preſent Succeſs of the Force hath inclined him to, then certainly doth it not ſo diveſt him of his *Right*, as that it ſhall be unlawfull for him when he can, to make Claim, and recover it again. As he that by a violent Invader is made to ſwear to pay ſuch a Summ of Money, it is acknowledged lawfull for him to implead that Thief, and recover from him, what in performance of that involuntary Oath he hath paid him.

In this caſe the difficulty is, What Condition thoſe *Subjects* are left in for that time, betwixt the *involuntary Dedition* of the *King*, and his *renewing* of his *Claim*; and the Solution muſt be, That a Proportion be obſerved between the Act of the King, and the Subjects conſequent Act: The Act of the King is but a *preſent Dedition*, and doth not oblige him never to make any farther Claim again; and conſequently this gives not any ſuch Abſolution to the *Subjects*, as that they may do any thing which ſhall prejudice that After-Claim, or blemiſh his *Roy-*

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alty, such as are taking new Oaths of *Allegiance*, *Abjurations* of him and his Issue, *Engagements* to the *Usurped Power*, &c. All that it can doe, is to make it free for them to submit to such other things, of an inferiour nature, (which includes not any such blemishment of *Rights* of the lawfull Prince,) provided that they acknowledge not the lawfulness of the present usurped Power, nor act as Ministers or Instruments thereof. This is the utmost that seems possible to determine in this matter.

5. As for that Power which *Tract of Time* may be thought to have in this business, that is not considerable, where the Claim is continued, (for that argues the Dedition involuntary,) and much less, when there is no Dedition at all; for there 'twas before supposed, that Force cannot confer Right.

6. And if by this stating of the Case it follow, that the Lot of the faithfull Subjects must be very unhappy at this time, and that great Disorder must necessarily continue in such a broken Kingdom, as long as the Contention between the violent *Usurper* and the just *Owner* thus remains undecided. I answer: That this is oft the Lot of the most pious Men under the Gospel, *who have their good things here mixt with Tribulations*, and must content themselves in the solaces of a good Conscience, in performing those Duties which cost them deareſt, and expect their full payment of joys without hardships, to be paid them in another World.

THE END.